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OUR FILE NUMBER  
892,050-215

October 24, 2003

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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OCT 24 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY


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Re: WC Docket No. 02-359

Dear Ms. Dortch:

Enclosed for filing in the above-captioned proceeding are an original and four copies of the Final Offer of Verizon Virginia Inc. In addition, we are enclosing eight copies for the arbitrator. Thank you.

Sincerely,

  
\_\_\_\_\_  
Kimberly A. Newman  
of O'Melveny & Myers LLP

cc: Stephen T. Perkins  
Martin W. Clift, Jr.  
Richard U. Stubbs  
Ms. Terri Natoli  
Mr. Jeremy Miller  
Mr. Brad Koerner  
Mr. Marcus Maher  
Mr. Richard Lerner  
Mr. John Adams  
Ms. Margaret Darley

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OCT 24 2003

Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D C 20554

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OCT 24 2003

In the Matter of )  
 )  
Petition of Cavalier Telephone, LLC )  
Pursuant to Section 252(e)(5) of the )  
Communications Act for Preemption )  
of the Jurisdiction of the Virginia State )  
Corporation Commission Regarding )  
Interconnection Disputes with Verizon )  
Virginia, Inc and for Arbitration )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

WC Docket No 02-359

**NOTICE OF THE AMENDED FINAL OFFER OF VERIZON VIRGINIA INC. FOR  
THE PROPOSED INTERCONNECTION AGREEMENT WITH CAVALIER  
TELEPHONE LLC**

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October 24, 2003

Pursuant to 47 C.F.R. §51.807(3)(e) and the October 22, 2003, request of the Bureau, Verizon Virginia Inc. ("Verizon") submits its Final Offer for the Interconnection Agreement with Cavalier Telephone LLC ("Cavalier"). The table below reflects any and all amendments to contract language proposed by Verizon since the filing of its Response on September 5, 2003. All other contract proposals made by Verizon on September 5, 2003 remain the same and constitute Verizon's final offer on all other disputed issues. Verizon respectfully requests that the Bureau adopt Verizon's final contract proposals on all issues that remain in dispute.

<u>Issue</u>	<u>Amendment to Contract Language Proposed by Verizon</u>
<p><b>Issue C3:</b> Should meet-point billing be improved as set forth in Cavalier's Virginia arbitration petition? (§§ 1.12(b), 1.46, 1.48, 1.62(a), 1.87, 5.6.6, 5.6.6.1, 5.6.6.2, and 7.2.2)</p>	<p><b>7.2.2</b> - Transit Traffic may be routed over the Interconnection Trunks described in Sections 4 and 5. Cavalier shall deliver each Transit Traffic call to Verizon with CCS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability of those CLASS Features supported by Verizon and billing functions. In all cases, each Party shall follow the Exchange Message Interface ("EMI") standard and any applicable industry guidelines with respect to any exchange of records between the Parties. <u>For such Transit Traffic, Verizon shall also provide billing information sufficient to allow proper billing of such Transit Traffic to the extent the originating carrier provides such information to Verizon and the provision of such billing information is consistent with industry guidelines.</u></p>
<p><b>Issue C4:</b> Should Cavalier be required to pay the unspecified charges of non-parties to the agreement, as determined at the sole discretion of such non-parties? (§ 7.2.6)</p>	<p><b>7.2.6</b> - Cavalier shall pay Verizon for Transit Service that Cavalier originates at the rate specified in Exhibit A. <del>Cavalier agrees to indemnify and hold Verizon harmless for any and all charges or costs the terminating CLEC, ITC, CMRS carrier, or other LEC, imposes or levies on Verizon for the delivery or termination of such traffic, including any Switched Exchange Access Service charges in accordance with the procedures set forth in Section 24 of this Agreement. In the event</del> <u>Verizon bills Cavalier for charges or costs that</u></p>

<u>Issue</u>	<u>Amendment to Contract Language Proposed by Verizon</u>
	<p><u>the terminating CLEC, ITC, CMRS carrier, or other LEC imposes or levies on Verizon for the delivery or termination of Cavalier traffic, Verizon will, upon Cavalier's request, work cooperatively with Cavalier to dispute such charges or costs with the terminating CLEC, ITC, CMRS carrier or other LEC. In the event the Commission or a court or arbitrator of competent jurisdiction orders Verizon to pay (in whole or in part) charges or costs that the terminating CLEC, ITC, CMRS carrier, or other LEC imposes or levies on Verizon for the delivery or termination of Cavalier traffic, Cavalier will reimburse Verizon in full for the charges or costs that Verizon is ordered to pay. In addition, regardless of the outcome of any such dispute over charges or costs imposed or levied on Verizon for the delivery or termination of Cavalier traffic, Cavalier shall reimburse Verizon in full for the actual costs, including reasonable attorneys' fees, Verizon incurred in connection with disputing and/or defending against the charges or costs levied by the CLEC, ITC, CMRS carrier or other LEC.</u></p> <p><b>7.2.7</b> - If or when a third party carrier's Central Office subtends a Cavalier Central Office, then Cavalier shall <del>offer</del> <u>make available</u> to Verizon a service arrangement equivalent to or the same as Tandem Transit Service provided by Verizon to Cavalier as defined in this Section 7.2 such that Verizon may terminate calls to a Central Office of a CLEC, ITC, CMRS carrier, or other LEC that subtends a Cavalier Central Office ("Reciprocal Tandem Transit Service") <u>Upon Verizon's request</u>, Cavalier shall <del>offer</del> <u>provide</u> such Reciprocal Tandem Transit Service arrangements under the terms and conditions no less favorable than those provided in this Section 7.2</p>
<p><b>Issue C5:</b> Should Verizon be required to render affirmative but reasonably limited assistance to Cavalier in coordinating direct traffic exchange agreements with third parties? (§ 7.2.8)</p>	<p><b>7.2.8</b> - Neither Party shall take any actions to prevent the other Party from entering into a direct and reciprocal traffic exchange agreement with any carrier to which it</p>

<u>Issue</u>	<u>Amendment to Contract Language Proposed by Verizon</u>
	<p>originates, or from which it terminates, traffic. Upon request, Verizon shall provide to Cavalier names, addresses and phone numbers of points of contact of CLECs, ITCs, CMRS providers and/or other LECs with which Cavalier wishes to establish reciprocal Telephone Exchange Service traffic arrangements in the Commonwealth of Virginia, provided that Verizon has such information in its possession. <del>Cavalier may, but is not required to, provide evidence or documentation of Transit Traffic sent to Verizon by Cavalier and terminated to a CLEC, ITC, CMRS carrier or other LEC. Verizon may, but is not required to, use such Transit Traffic evidence or documentation to dispute the bills Verizon receives from the relevant CLEC, ITC, CMRS carrier or other LEC. If Verizon disputes a bill based on Transit Traffic documentation or evidence provided by Cavalier, Cavalier agrees to indemnify Verizon and hold Verizon harmless as to any claims by the billing CLEC, ITC, CMRS carrier or other LEC in accordance with the procedures set forth in Section 24 of this Agreement. In the event Cavalier makes commercially reasonable efforts to initiate negotiation of a direct and reciprocal traffic exchange agreement with a CLEC, ITC, CMRS carrier or other LEC and such efforts are not successful, Verizon will, upon Cavalier's written request (including, without limitation, a statement detailing such Cavalier efforts), make commercially reasonable efforts to assist Cavalier in scheduling a conference call and/or a meeting between Cavalier and such third party carrier. Notwithstanding any provision here, in no event shall Verizon be required to participate in interconnection negotiations, mediations, arbitrations, hearings, litigation or the like involving Cavalier and a third party carrier, or to take any actions in connection therewith, except as explicitly set forth in this Section 7.2.</del></p>
<u>Issue C9:</u> Should the agreement include language to	<b>11.2.7</b> "2-Wire IDSL-Compatible Metallic

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<p>address inconsistency between the results obtained by Verizon and by Cavalier from the loop prequalification database, to allow Cavalier to provide xDSL services on loops over 18,000 feet in length, and do adopt pricing for loop conditioning and loops used by Cavalier to provide xDSL service? (§§ 11.2 and Exhibit A)</p>	<p>Loop” consists of a single 2-wire non-loaded, twisted copper pair that meets revised resistance design criteria. This UNE loop, is intended to be used with very-low band symmetric DSL systems that meet the Class 1 signal power limits and other criteria in the <u>ANSI T1.417-2003</u> <del>draft T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3)</del> and are not compatible with 2B1Q 160 kbps ISDN transport systems. The actual data rate achieved depends upon the performance of Cavalier-provided modems with the electrical characteristics associated with the loop. This loop cannot be provided via UDLC. IDSL-compatible local loops will be provided only where facilities are available and can meet applicable specifications. Verizon will not build new copper facilities.</p> <p><b>11.2.8 “2-Wire SDSL-Compatible Loop”,</b> is intended to be used with low band symmetric DSL systems that meet the Class 2 signal power limits and other criteria in <u>ANSI T1 417-2003</u> <del>the T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3)</del>. This UNE loop consists of a single 2-wire non-loaded, twisted copper pair that meets Class 2 length limit in <u>ANSI T1.417-2003</u> <del>T1E1.4/2000-002R3</del>. The data rate achieved depends on the performance of the Cavalier-provided modems with the electrical characteristics associated with the loop. SDSL-compatible local loops will be provided only where facilities are available and can meet applicable specifications. Verizon will not build new copper facilities.</p> <p><u>11.2.8(a) “2-Wire Digital Designed Metallic Loop” 18-30 Kft. provides a channel with 2-wire interfaces at each end, which is intended to be used for digital services beyond 18 Kft. Cavalier may deploy any loop technology that meets the Class 1 (or Very-Low-Band Symmetric) Power Spectral Density template in the loop Spectrum Management</u></p>

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	<p><u>standard, ANSI T1.417-2001. The average normalized power in any 100 kHz band must not exceed unity and the peak PSD must not exceed that of the Spectrum Management standard template by more than 2.5 dB. The transmit power is limited to 14.0 dBm. This loop may be ordered with load coil removal under the terms and conditions for load coil removal under Digital Designed Loops.</u></p>
<p>Issue C21: Should the agreement allow for a unilateral Verizon demand for deposits and advance payments? (§ 20.6)</p>	<p><b>20.6</b> Upon request by Verizon, Cavalier shall, at any time and from time to time, provide to Verizon adequate assurance of payment of amounts due (or to become due) to Verizon hereunder. Assurance of payment of charges may be requested by Verizon if Cavalier (a) in Verizon's reasonable judgment, at the Effective Date or at any time thereafter, is unable to demonstrate that it is creditworthy, (b) prior to the Effective Date, has failed to timely pay a bill (in respect of amounts not subject to a bona fide dispute) rendered to Cavalier by Verizon or its Affiliates, (c) on or after the Effective Date, fails to timely pay a bill (in respect of amounts not subject to a bona fide dispute) rendered to Cavalier by Verizon or its Affiliates, or (d) admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had a case commenced against it) under the U.S. Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding. Unless otherwise agreed by the Parties, the assurance of payment shall, <u>at Verizon's option</u>, consist of <u>(i) a cash security deposit in U.S. dollars held in a Verizon account at a financial institution or (ii) an unconditional, irrevocable standby letter of credit naming Verizon as the beneficiary thereof and otherwise in form and substance satisfactory to Verizon from a financial institution acceptable to Verizon, in either case in an amount equal to two (2)</u></p>

<u>Issue</u>	<u>Amendment to Contract Language Proposed by Verizon</u>
	<p>months anticipated charges (including, without limitation, both recurring and non-recurring charges), as reasonably determined by Verizon, for the services, facilities or arrangements to be provided by Verizon to Cavalier in connection with this Agreement. <u>To the extent that Verizon opts for a cash deposit, the Parties intend that the provision of such deposit shall constitute the grant of a security interest pursuant to Article 9 of the Uniform Commercial Code as in effect in any relevant jurisdiction. Cavalier will be paid the interest that Verizon actually receives from the financial institution with respect to Cavalier's cash security deposit(s) held by such financial institution.</u> Verizon may (but is not obligated to) draw on the letter of credit <u>or funds on deposit in the account, as applicable,</u> upon notice to Cavalier in respect of any amounts billed hereunder that are not paid within thirty (30) days of the date of the applicable statement of charges prepared by Verizon. If Cavalier fails to timely pay (x) two (2) or more bills (in respect of amounts not subject to a bona fide dispute) that Verizon renders at any time during any sixty (60) day period or (y) three (3) or more bills (in respect of amounts not subject to a bona fide dispute) that Verizon renders at any time during any one hundred eighty (180) day period, Verizon may, at its option, demand (and Cavalier shall provide for the remainder of the term of this Agreement, including, without limitation, during any extensions of the term) additional assurance of payment, consisting of monthly advanced payments of estimated charges as reasonably determined by Verizon, with appropriate true-up against actual billed charges no more frequently than once per calendar quarter; provided, however, that Cavalier shall not be required to provide the foregoing additional assurance of payment if the total amount of the unpaid bills represents less than five percent (5%) of the total amount of Verizon's bills rendered to Cavalier hereunder during the</p>

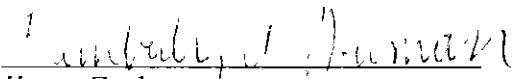


<u>Issue</u>	<u>Amendment to Contract Language Proposed by Verizon</u>
	relevant period that are not subject to a bona fide dispute. The fact that a <u>security deposit or a letter of credit or other security</u> is requested by Verizon hereunder shall in no way relieve Cavalier from compliance with Verizon's regulations as to advance payments and payment for service, nor constitute a waiver or modification of the terms herein pertaining to the discontinuance of service for nonpayment of any sums due to Verizon for the services, facilities or arrangements rendered
<u>Issue C25</u> : Should the agreement include a new section 25.5.7: "for legally cognizable damages claimed as a result of either party's violation of state or federal law governing the provision of telecommunications services or commerce more generally, or as a result of either party's violation of any state or federal regulations governing telecommunications or commerce more generally?" (§ 25.5.7)	<u>25.5.7 for a claim of defamation;</u> <u>25.5.8 for a claim of misleading or inaccurate advertising; or</u> <u>25.5.9 for a claim of violation of antitrust laws (including a claim for trebled or multiple damages under such antitrust laws)</u> <del>25.5.7</del> No proposed language.

DATED October 24, 2003

Michael E. Glover  
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Respectfully submitted,

  
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## CERTIFICATE OF SERVICE

I certify that on the 24th day of October, 2003, the Final Offer of Verizon Virginia, Inc in the above-captioned proceeding was served on the following parties

### **Via Overnight Delivery and Electronic Mail:**

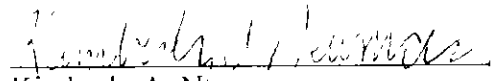
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\_\_\_\_\_  
Kimberly A. Newman.